

## **§ 635.9**

record to protect special investigative techniques, maintain confidentiality, preclude compromise of an investigation, and protect other law enforcement interests.

### **§ 635.9 Guidelines for disclosure within DOD.**

(a) Criminal record information contained in military police documents will not be disseminated unless there is a clearly demonstrated official need to know. A demonstrated official need to know exists when the record is necessary to accomplish a function that is within the responsibility of the requesting activity or individual, is prescribed by statute, DOD directive, regulation, or instruction, or by Army regulation.

(1) Criminal record information may be disclosed to commanders or staff agencies to assist in executing criminal justice functions. Only that information reasonably required will be released. Such disclosure must clearly relate to a law enforcement function.

(2) Criminal record information related to subjects of criminal justice disposition will be released when required for security clearance procedures.

(3) Criminal record information may be released to an activity when matters of national security are involved.

(4) When an individual informs an activity of criminal record information pertaining to them, the receiving activity may seek verification of this information through the responsible law enforcement agency or may forward the request to that organization. The individual must be advised by the receiving agency of the action being pursued. Law enforcement agencies will respond to such requests in the same manner as FOIA and Privacy Act cases.

(b) Nothing in this part will be construed to limit the dissemination of information between military police, the USACIDC, and other law enforcement agencies within the Army and DOD.

### **§ 635.10 Release of information.**

(a) Release of information from Army records to agencies outside DOD will be governed by AR 25-55, AR 340-21, AR 600-37, and this part. Procedures for release of certain other records and infor-

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mation are contained in AR 20-1, AR 27-20, AR 27-40, AR 40-66, AR 195-2, AR 360-1, and AR 600-85. Installation drug and alcohol offices may be provided an extract of DA Form 3997 (Military Police Desk Blotter) for offenses involving the use of alcohol or drugs (for example, drunk driving, drunk and disorderly conduct, or positive urinalysis) or illegal use of drugs.

(b) Installation Provost Marshals/Directors of Emergency Services are the release authorities for military police records under their control. They may release criminal record information to other activities as prescribed in AR 25-55 and AR 340-21, and this part.

(c) Authority to deny access to criminal records information rests with the initial denial authority (IDA) for the FOIA and the access and amendment refusal authority (AARA) for Privacy Acts cases, as addressed in AR 25-55 and AR 340-21.

### **§ 635.11 Release of information under the Freedom of Information Act (FOIA).**

(a) The release and denial authorities for all FOIA cases concerning military police records include Provost Marshals/Directors of Emergency Services and the Commander, USACIDC. Authority to act on behalf of the Commander, USACIDC is delegated to the Director, USACRC.

(b) FOIA requests from members of the press will be coordinated with the installation public affairs officer prior to release of records under the control of the installation Provost Marshal/Director of Emergency Services. When the record is on file at the USACRC the request must be forwarded to the Director, USACRC.

(c) Requests will be processed as prescribed in AR 25-55 and as follows:

(1) The Provost Marshal/Director of Emergency Services will review requested reports to determine if any portion is exempt from release. Any discretionary decision to disclose information under the FOIA should be made only after full and deliberate consideration of the institutional, commercial, and personal privacy interests that could be implicated by disclosure of the information.

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(2) Statutory and policy questions will be coordinated with the local staff judge advocate.

(3) Coordination will be completed with the local USACIDC activity to ensure that the release will not interfere with a criminal investigation in progress or affect final disposition of an investigation.

(4) If it is determined that a portion of the report, or the report in its entirety will not be released, the request to include a copy of the MPR or other military police records will be forwarded to the Director, USACRC, ATTN: CICR-FP, 6010 6th Street, Fort Belvoir, VA 22060-5585. The requester will be informed that their request has been sent to the Director, USACRC, and provided the mailing address for the USACRC. When forwarding FOIA requests, the outside of the envelope will be clearly marked "FOIA REQUEST."

(5) A partial release of information by a Provost Marshal/Director of Emergency Services is permissible when partial information is acceptable to the requester. (An example would be the deletion of a third party's social security number, home address, and telephone number, as permitted by law). If the requester agrees to the omission of exempt information, such cases do not constitute a denial. If the requester insists on the entire report, a copy of the report and the request for release will be forwarded to the Director, USACRC. There is no requirement to coordinate such referrals at the installation level. The request will simply be forwarded to the Director, USACRC for action.

(6) Requests for military police records that have been forwarded to USACRC and are no longer on file at the installation Provost Marshal Office/Directorate of Emergency Services will be forwarded to the Director, USACRC for processing.

(7) Requests concerning USACIDC reports of investigation or USACIDC files will be referred to the Director, USACRC. In each instance, the requester will be informed of the referral and provided the Director, USACRC address.

(8) Requests concerning records that are under the supervision of an Army activity, or other DOD agency, will be

referred to the appropriate agency for response.

### **§ 635.12 Release of information under the Privacy Act of 1974.**

(a) Military police records may be released according to provisions of the Privacy Act of 1974, as implemented by AR 340-21 and this part.

(b) The release and denial authorities for all Privacy Act cases concerning military police records are provided in § 635.10 of this part.

(c) Privacy Act requests for access to a record, when the requester is the subject of that record, will be processed as prescribed in AR 340-21.

### **§ 635.13 Amendment of records.**

(a) *Policy.* An amendment of records is appropriate when such records are established as being inaccurate, irrelevant, untimely, or incomplete. Amendment procedures are not intended to permit challenging an event that actually occurred. For example, a request to remove an individual's name as the subject of an MPR would be proper providing credible evidence was presented to substantiate that a criminal offense was not committed or did not occur as reported. Expungement of a subject's name from a record because the commander took no action or the prosecutor elected not to prosecute normally will not be approved. In compliance with DOD policy, an individual will still remain entered in the Defense Clearance Investigations Index (DCII) to track all reports of investigation.

(b) *Procedures.* (1) Installation Provost Marshals/Directors of Emergency Services will review amendment requests. Upon receipt of a request for an amendment of a military police record that is five or less years old, the installation Provost Marshal/Director of Emergency Services will gather all relevant available records at their location. The installation Provost Marshal/Director of Emergency Services will review the request and either approve the request or forward it to the Director, USACRC with recommendation and rationale for denial. In accordance with AR 340-21, paragraph 1-71, the Commanding General, USACIDC is the sole access and amendment authority for criminal investigation reports and